IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.1400 OF 1993

Nayan Mohanbhai Patel & Anr. ...Petitioners.
Vs.
The State of Maharashtra & Ors. ...Respondents.
....
Mr. Shekhar Shetye with Mr. V. Amin i/b.M/s. B.Amin & Co. for the Petitioners.
Mr. S.M. Dandekar, AGP for the Respondents.
.....

CORAM : S.RADHAKRISHNAN &
DR.D.Y.CHANDRACHUD, JJ.

November 25, 2004.

P.C.:

We have perused Section 3 of the Maharashtra Educational Institutions (Prohibition of Capitation Fee) (Amendment) Act, 1996, which reads thus :

"3. Amendment of section 3 of Mah. VI of 1988 – In Section 3 of the prime Act, -

(a) in sub-section (1), for the word "collected" the words "demanded or collected" shall be substituted;

(b) in sub-section (2),-

(i) for the portion beginning with the words "in good faith" and ending with the words "prescribed manner", the

following shall be substituted, namely:-

"In good faith, demand or, collect or accept donations in cash or kind in prescribed manner,";

(ii) the second proviso shall be deleted;

(c) in sub-section (4), after the wrods "Collection" the word "demanding" shall be inserted;

(d) in the marginal note, for the word "Collection" the words "Demand or collection" shall be substituted."

The first proviso to Section 3 clause (2) makes it abundantly clear that any acceptance of donation shall be deemed to be collection capitation fee.

Over and above, in the year 1996 the amendment made by the Maharashtra Act No.XXIV of 1996, in Section 3 clause (2), the second proviso has been deleted. Under the aforesaid circumstances, the Petitioners do not claim any benefit as sought to be claimed. In view of the changed provisions of law, the Petitioners are not entitled to any relief.

Rule stands discharged.

(S.RADHAKRISHNAN, J.)

(DR.D.Y.CHANDRACHUD, J.)